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**BZA-1837**  
**REL ENTERPRISES, LLC**  
**Variance**

**STAFF REPORT**  
**October 20, 2011**

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**REQUEST MADE, PROPOSED USE, LOCATION:**

Petitioner, represented by attorney Daniel Teder, is requesting a variance to eliminate the required “type C” bufferyard where I3 zoning abuts petitioner’s R1-zoned, proposed major subdivision called Roberts Ridge. The sketch plan shows 139 lots on 59.54 acres located on the north side of CR 450 S one mile east of Concord Road, Wea 14 (NE) 22-4. Because the adjacent I3-zoned land is unimproved, only half of the required 20’ bufferyard is required (only that portion on petitioner’s side of the property line).

**AREA ZONING PATTERNS:**

The 59 acres in the subdivision proposal were rezoned from I3 to R1 in two petitions: in 2007 about 52 acres were rezoned (Z-2344) and about 8 acres were rezoned this past September (Z-2462). Industrial zoning, part of the huge industrial rezone by Greater Lafayette Progress, Inc. (GLPI, now Greater Lafayette Commerce) approved in 1997, can still be found along the northeast and eastern border (where this variance is requested). Residential zoning is to the northwest and west. Agricultural zoning is located to the southeast of the site and south across CR 450 S.

**AREA LAND USE PATTERNS:**

The land in this request is mostly in row-crop production; a farm house and associated building is located at the southwestern corner. Woodland Elementary and a church are adjacent to the west and single-family subdivisions are farther to the west. Land adjoining to the north and east is farmed except for a retention pond to the northeast. The Kirkpatrick Ditch forms the northern boundary of petitioner’s proposed subdivision. Several single-family homes line both sides of CR 450 S.

**TRAFFIC AND TRANSPORTATION:**

According to the *Thoroughfare Plan*, CR 450 S is classified as a rural local road; traffic counts taken in 2009 indicate that around 1,200 vehicles travel this road daily. This count has likely increased since the elementary school and church have been completed; new traffic counts will be taken by the County Highway Department next year.

**ENVIRONMENTAL AND UTILITY CONSIDERATIONS:**

City utilities will serve the site.

## STAFF COMMENTS:

In the past 10 years, this area of Wea Township has developed residentially with Benjamin Crossing, Hunter's Crest and Avalon Bluff subdivisions adding nearly 900 single-family lots to the area. In 2008 the Tippecanoe School Corporation completed construction on Woodland Elementary School; a new church has also recently been built and both are adjacent to the west. With the extension of city utilities, this area is ripe for residential expansion.

For many years Staff encouraged the preservation of the industrial expansion area envisioned by *The Comprehensive Plan*. After more than ten successful residential rezones, Staff is now of the position to have residential development stop its eastern and southern expansion at the Conrail right-of-way. Per the UZO, when R1 zoned land abuts I3 land a "type C" bufferyard 20' in width is required. When the abutting land is unimproved only half of the bufferyard is required. If this variance is granted petitioner will not have to install his half. However, if an industrial user does locate next door, then the burden is placed on this user to install the complete 20' bufferyard.

The parcel to the north is zoned I3 and is the location of a required retention pond for the industrial subdivision farther north. It is highly unlikely that this land use will ever change and a pond is not a use from which residences need to be screened. Additionally the Kirkpatrick Ditch serves as a natural boundary between residential and industrial uses.

Staff believes the land adjacent to the east of the subdivision and south of the railroad is likely to be rezoned to a residential district when market demands shift and the economy improves. Because of the single-family homes along the north side of 450 S and this proposed subdivision, the I3 land adjacent to the east (behind the row of single-family homes) will eventually be surrounded on two sides by residences. This will cause the site to lose its appeal to potential industrial users.

Regarding the ballot items:

1. The Area Plan Commission at its October 19, 2011 meeting determined that the variance requested **IS NOT** a use variance.

And it is staff's opinion that:

2. Granting this variance **WILL NOT** be injurious to the public health, safety, and general welfare of the community. While staff believes that the adjacent land will most likely develop residentially, if an industrial user locates here it would still be required to install the required 20' wide bufferyard.
3. Use and value of the area adjacent to the property included in the variance request **WILL NOT** be affected in a substantially adverse manner. I3 land to the north is utilized as on-site storage for drainage and will not be developed. The I3 to the east will be surrounded on two sides by single-family homes and is unlikely to be developed industrially.

4. The terms of the zoning ordinance are being applied to a situation that **IS NOT** common to other properties in the same zoning district. The requirement for a bufferyard only makes sense adjacent to an industrial use; the neighboring property is not likely to be used industrially. It is unusual for a residential subdivision to be located adjacent to I3 zoning that is likely not going to be used industrially. If an industrial user does locate on this site, the entire 20' bufferyard will need to be installed.
5. Strict application of the terms of the zoning ordinance **WILL** result in an unusual or unnecessary hardship as defined in the zoning ordinance. A bufferyard to the north would only screen the Kirkpatrick Ditch and a retention pond, both of which are compatible with residential uses. The hardship involved is caused by the zoning ordinance because the existing zoning does not match the anticipated land uses.

**Note:** Questions 5a. and 5b. need only be answered if a hardship is found in Question 5 above.

5a. The hardship involved **IS NOT** solely self-imposed because the zoning does not reflect the land uses projected in the area.

5b. The variance sought **DOES** provide only the minimum relief needed to alleviate the hardship because it is highly unlikely that the adjacent land use to the east will be industrial; installing no bufferyard is minimum relief.

**STAFF RECOMMENDATION:**

Approval